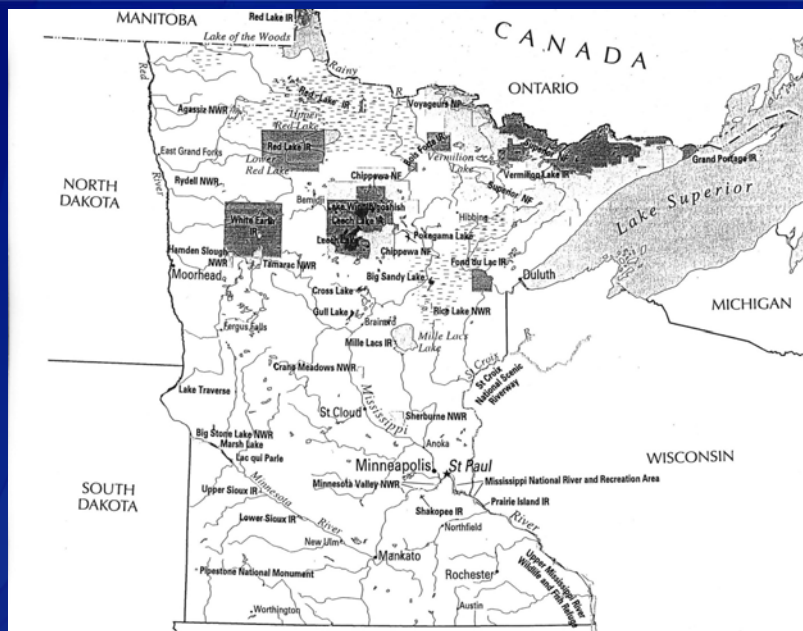


EMS Mutual Aid—Perspectives from the Minnesota-Ontario Border

GLBHI Annual Conference
Niagara Falls, New York
May 5, 2011

Stephen Shakman, J.D.
Minnesota Department of Health





Self-Service Border Crossing



Locomotive Border Shuttle



From Global to Local

- *International Health Regulations (2005)*
 - *Article 44 calls on Parties to collaborate in*
 1. *Detection, assessment & response to public health events with international concern;*
 2. *Technical cooperation & logistical support;*
 3. *Mobilization of financial resources; and*
 4. *Formulation of laws and other legal tools.*

US-Canada Agreement

- *The “US-Canada Agreement on Cooperation in Civil Emergency Planning and Management” was renewed in late 2008 and the current version can be found at <http://www.treaty-accord.gc.ca/text-texte.asp?id=105173>*
- *The Agreement establishes a joint US-Canada Consultative Group of US State and Homeland Security Departments and Canadian DFAIT and Public Safety Departments*

US-Canada Agreement

- *The Consultative Group:*
 - *should encourage, support, and facilitate, where appropriate, emergency management cooperation and mutual assistance among provinces, states, and local authorities.*
 - *may, by mutual consent, invite other federal, provincial, state or local authorities, as well as representatives of the private sector, voluntary sector and non-governmental organizations, to meetings of the Consultative Group [or its working groups].*

Federal Laws on Cross-Border Aid

The US statute encouraging emergency preparedness agreements by states with Canada and Mexico, provides:

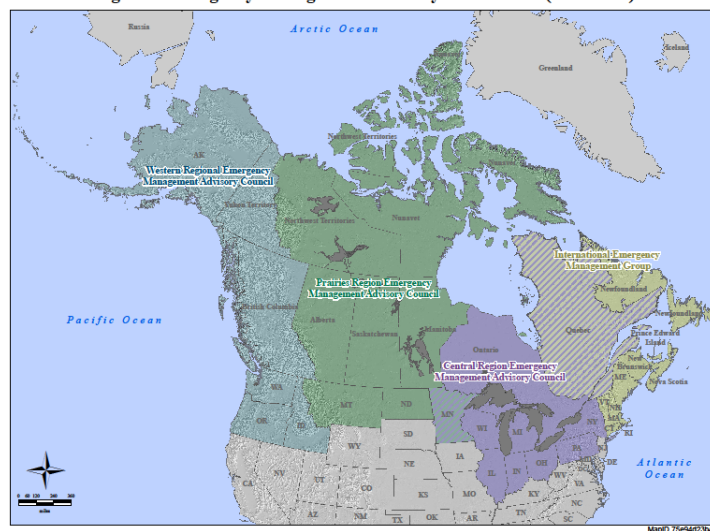
The [FEMA] Director [now Secretary of DHS] shall give all practicable assistance to States in arranging, through the Department of State, mutual emergency preparedness aid between the States and neighboring countries. 42 USCA § 5196a

Canada's Emergency Management Act similarly states:

[DPS and DFAIT] may develop joint emergency management plans with the relevant United States' authorities and, in accordance with those plans, coordinate Canada's response to emergencies in the United States and provide assistance in response to those emergencies. Emer. Management Act S.C. 2007 c. 15, § 5.

FEMA-PSC "REMACs"

Regional Emergency Management Advisory Committees (REMACs)



REMACs

- *All of GLBHI plus Quebec are in CREMAC*
- *Minnesota, northern plains states and prairie provinces are in PREMAC*
- *CREMAC and PREMAC discussions on hold while, FEMA, PSC, State Dept, DFAIT, and NEMA work on the North American Mutual Aid Consortium (NAMAC)*
- *WREMAC and EREMAC have MAAs*

Another Option--Paradiplomacy

- *Paradiplomacy defined??*

“Paradiplomacy is the engagement of subnational entities in international activities.”

Dieudonné Moauafo, Regional Dynamics in Canada-United States Relations, Conference of the Canadian Political Science Association, University of Manitoba (CPSA Congress 2004)

Paradiplomacy

- Cited in R. Bruce Sackinger, *Paradiplomatic Maneuvers on the Longest Undefended Border: National and Subnational Fire Protection Agreements Between Canada and the United States*, 13 *Willamette J. Int'l Law & Dispute Resolution* 319, 321 n. 10 (2006)

Fighting Wildfires

- *Every state, province, territory on the US-Canada border, except No. Dakota and Saskatchewan, participates in a cross-border compact or arrangement for fighting wildfires*
 - *From the YABA in far northwest*
 - *To NFFPC, started in New England in 1940's, later adding New Brunswick, Quebec, and Nova Scotia*
- *These were S/P/T initiatives with formal federal(s) involvement coming later*

Fighting Wildfires Minnesota/Ontario/GLFFC

“In recognition of the fact that fire does not respect national boundaries and that from the standpoint of public welfare and quality fire management, it is essential that the Parties to this Agreement share resources, expertise and intelligence in order to effectively manage fires along the United States/Ontario border.

Fighting Wildfires Minnesota/Ontario/GLFFC

Therefore it is the intent of the Parties to this Agreement, regardless of the point of origin, to cooperate on determining the most appropriate approach to be taken on any wildland fire that threatens each other's lands along the international boundary, and that a fire will not be abandoned simply because it has crossed the international boundary.”

Border Agreement between the Province of Ontario and the Minnesota Department of Natural Resources and Federal Agencies within the State of Minnesota, II at 2.

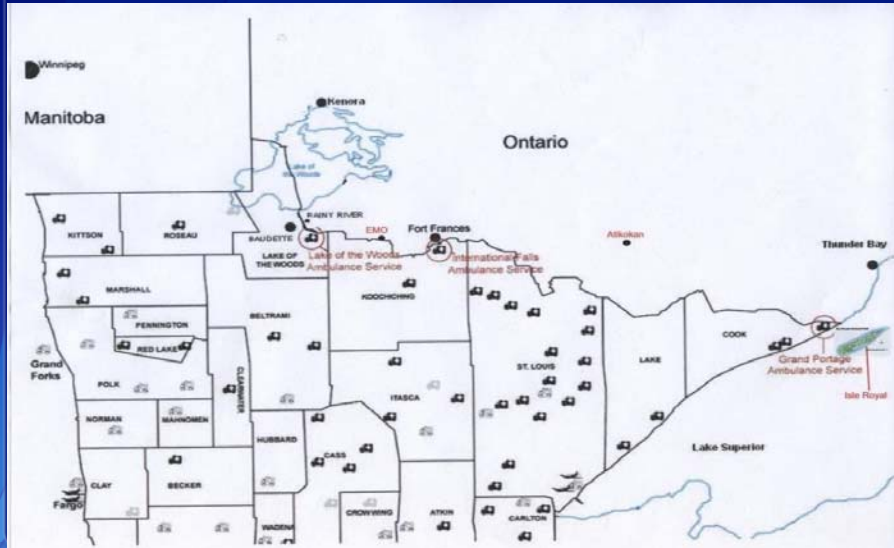
State/Provincial/Territorial EMAs

- 1. International Emergency Management Assistance Compact ("IEMAC") or Memorandum of Understanding (New England – Quebec & Maritime Provinces)*
- 2. Pacific Northwest Emergency Management Arrangement ("PNEMA") (BC, Yukon, Alaska, Idaho, Oregon, Washington)*
- 3. For remaining S/P/Ts, there are REMACs, the Pan Border Public Health Preparedness Council, and their own initiatives (numbering in the 100's)*

Local Exercises in Paradiplomacy

- Niagara Region (Ontario) and Erie and Niagara Counties (New York), Cross Border Contingency Plan*
- International Falls (Minnesota) and Fort Frances (Ontario) fire department mutual aid*
- Other local arrangements – in writing, by a handshake, or through long custom*

Minnesota Northern Region EMS



Border Demographics for EMS Planning

- *Cook County, MN (borders Thunder Bay District)*
 - *County Population – 5, 500*
 - *Ambulance Services – 3 (BLS) – Volunteer Services Cover the County*
 - *One (1) Hospital – Grand Marais, MN. – 45 Miles from the Border Crossing*
- *Koochiching County, MN (borders Rainy River District)*
 - *County Population – 14, 400*
 - *Ambulance Services – 1 (BLS) and 1 (Part-Time ALS) – Paid/Volunteer services are based in the County*
 - *One (1) Hospital – International Falls, MN. – 5 Miles from the Border Crossing*
- *Lake of the Woods County, MN (borders Rainy River District & MB)*
 - *County Population – 4, 500*
 - *Ambulance Services – 1 (BLS) – Volunteer Service Covers the County*
 - *One (1) Hospital – Baudette, MN*

Work in Progress on Mutual Aid along the Minnesota-Ontario Border

- *International Falls – Fort Frances Local Cross-Border Steering Committee*
- *The Highway 61 Corridor – Grand Marais, Grand Portage, Thunder Bay*

International Falls – Fort Frances Local Cross-Border Steering Committee

- *Established in 2010 “To develop a process . . . [to] share material and human resources in the event of an emergency affecting one or both . . . communities”*
- *Meeting quarterly*
- *History of fire, ambulance, and health care collaboration*
- *Basic fire mutual aid agreement now in need of modernization*

Highway 61 EMS Cross-Border Working Group

- *June 2008 Toronto meeting on EMS with MI, MN, NY, and ON agencies*
- *Minnesota group met July 2008 -- EMSRB, Regional EMS Coordinator, HSEM, Healthcare System Preparedness Program, MDH*
- *December 2008 MNICS International Exercise MNICS=HSEM+DNR+USFS+FWS+BIA+NPS*
- *Working with Superior North EMS and Municipality of Thunder Bay in Workshops*
 - *March 2009 and June 2011, hosted by Grand Portage Band of Lake Superior Chippewa Indians*

Highway 61 EMS Cross-Border Working Group

- *Goal is an EMS agreement for Thunder Bay District (ON) and Arrowhead Region (MN).*
- *Later might be incorporated into a larger Minnesota-Ontario Emergency Management Arrangement, or to a regional agreement (CREMAC) or all-border agreement (NAMAC).*

Legal Issues from Cross-Border Groups

- *Authority to enter cross-border MAA*
- *Liability & Workers' Compensation Protection*
- *Licensure*
 - *Ambulance service*
 - *Medical Director*
- *Movement of drugs and medical devices*
- *Expense reimbursement and . . .*

Border Clearance

Hello Officer: No, we don't have any passports, no idea how long we'll be up here, where we will be going, and oh yeah, the back is full of drugs.



Roseau Hockey Question

- *Roseau High School has developed many NHL players. Can you name these two?*



Solutions in Minnesota Law- Emergency Management Agreements

- *“ . . . the state [HSEM] director may enter into mutual aid agreements with emergency management agencies or organizations in Canadian provinces for reciprocal emergency management aid or assistance in case of disaster too great to be dealt with unassisted.”*
 - *Minn. Stat. § 12.27, subd. 2a*
- *Also authority for state-province EMA*
- *Need provision on local-local EMA near border*

Solutions in Minnesota Law-Local Public Health Agency Agreements

- *2008 Medical Reserve Corps Statute added:*

. . . A board of health may also enter into [mutual aid] agreements with the Indian Health Services of the United States Department of Health and Human Services, and with boards of health, political subdivisions, and tribal governments in bordering states and Canadian provinces.

– Minn. Stat. § 145A.04, subd. 6b

Solutions in Minnesota Law-Volunteers

- *Protection for volunteers (individuals)*
 - *Minn. Stat. § 12.22, subd. 2a, gives emergency volunteers under local government direction & control the same status for defense of tort claims & workers' compensation as paid government employees*
 - *Similarly, the law gives emergency volunteers under State direction & control the same status for defense of tort claims & workers' compensation as paid State employees*
- *Protections for business & other entities*
 - *2010 amendment grants Good Samaritan liability protection to entities acting without compensation and under governmental direction in disaster response*

Solutions in Minnesota Law-Good Samaritan Standard for All Responders in Medical Crisis

- *During a “declared emergency” the Governor can issue an order because the number of ill or injured people exceeds ambulance or medical transport capacity in one or more health regions requiring care at temporary facilities. Minn. Stat. §12.61.*
- *Under the §12.61 order, any responder providing care pursuant to an emergency operations plan is not liable for good faith acts or omissions. (“Good Samaritan” standard)*

Solutions in Minnesota Law-Good Samaritan Standard for All Responders in Medical Crisis

- *Former Governor Tim Pawlenty declared peacetime emergency for Red River floods on March 20, 2009*
- *Former Governor Pawlenty issued first order ever for temporary care facilities on March 26, 2009, due to actual and threatened evacuations of health care facilities & medical transport difficulties*

Solutions in Minnesota Law-Licensure Waiver in Declared Emergency

- *Minn. Stat. § 12.42 enables the Governor to request aid from out-of-state licensed professionals: “During a declared emergency, a person who holds a license, certificate, or other permit issued by a state . . ., the District of Columbia, or a province of Canada” may render aid upon Governor’s request as though licensed in Minnesota.*
- *Invoked by Executive Order 09-07 in 2009 Red River Floods*

Obstacles in Minnesota Law - Other Licensure Waiver

- *Governor declared emergencies are relatively rare*
- *Local mass casualty incidents might trigger local declaration, but no licensure waiver if local*
- *Routine cross-border EMS needs (as in Roseau-MB)*
- *Some waivers possible under MN ambulance law —e.g., Minn. Stat. § 144E.266*
- *EMSRB looking at reciprocity with ON and other bordering jurisdictions (Washington/BC example)*

Operational Plan for Moving Healthcare Providers and Resources Across the Washington and British Columbia Border



March 9, 2009



<http://www.doh.wa.gov/phepr/WA-BC-EMSagreement.pdf>

Acknowledgements

- *Roy Holmes, Northeast Regional Program Coordinator, Minnesota HSEM*
- *Robert Norlen, Northeast Field Representative, Minnesota EMSRB*
- *Michael L. Smith, EMS Terrorism & Disaster Response Consultant, Washington Department of Health*
- *Gerry Delorme, Director, Office of Disaster Management, Manitoba Health*